

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

ANTONIO SANCHEZ FRANKLIN, : Case No. 3:12-cv-312  
Petitioner, :  
- vs - : District Judge Timothy S. Black  
Magistrate Judge Michael R. Merz  
: :  
NORMAN ROBINSON, Warden, :  
: Respondent. :  
:

**ORDER ADOPTING REPORT AND RECOMMENDATIONS (Doc. 19)**

This case is before the Court on Respondent's motion to dismiss Petitioner's habeas petition (Doc. 15), and the parties' responsive memoranda (Docs. 17, 18). On September 10, 2015, United States Magistrate Judge Michael R. Merz, to whom this case is referred pursuant to 28 U.S.C. § 636(b), issued his Report and Recommendations as to Respondent's motion, recommending that the habeas petition be dismissed without prejudice and that Petitioner be granted leave to move to file an amended petition no later than September 30, 2015. (Doc. 19). No objections were filed to the Report and Recommendations, and the time for such filings expired on September 28, 2015. (*Id.*; *see* Fed. R. Civ. P. 72(b)).

On September 30, 2015, Petitioner filed an amended habeas corpus petition. (Doc. 20). Respondent immediately moved to strike the petition, arguing that the Report and Recommendations proposed granting leave *to move to file* an amended petition. (Doc. 21). On October 1, 2015, Magistrate Judge Merz granted by notation order Respondent's motion

to strike. (*See* Not. Order, Oct. 1, 2015). Additionally, however, Magistrate Judge Merz, *sua sponte*, extended the deadline for Petitioner to move to file an amended petition to October 6, 2015. (*Id.*)

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court determines that such Report and Recommendations (Doc. 19) should be, and is hereby, ADOPTED in its entirety, but for the deadline by which Petitioner must move to file an amended petition, which was extended per the Magistrate Judge's October 1, 2015 notation order. Accordingly, Petitioner is granted leave to move to file an amended petition no later than October 6, 2015, which conforms to the requirements set forth in the Report and Recommendations and the Magistrate Judge's subsequent Notation Order of October 1, 2015.

**IT IS SO ORDERED.**

Date: 10/3/15

s/ Timothy S. Black  
Timothy S. Black  
United States District Judge